

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3724 of 1997

with

Civil Application No. 9372 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

LAXMANBHAI GOPAL MADAN

Versus

GANGARAM SHIVRAM PRAJAPATI

Appearance:

MR AV PRAJAPATI for Petitioner

MR.AJAY R. METHA for Respondent No. 2

CORAM : MR.JUSTICE S.D.SHAH

Date of decision: 15/10/97

ORAL JUDGEMENT

1. Admit. Mr. Ajay R. Metha appears and waives service of admission on behalf of Respondent No.2. He shall file his appearance since he has been instructed to appear at the short notice of this Court.

2. The claimant is one Laxmanbhai Gopalbhai filed a

Motor Accident Claim Petition No. 317 of 1988 before the Motor Accident Claims Tribunal (Auxiliary) at Ahmedabad. The claim in this First Appeal has not at all challenged before this court. The amount which is awarded by the Tribunal as compensation, namely, amount of Rs. 35,980/with interest at 12 per cent per annum on the amount of Rs.32,980/- with proportionate costs. The only grievance made by the claimants before this Court in this Appeal is that out of the amount which is awarded and which is ordered to be deposited before the Tribunal, the Tribunal has simply permitted the claimant to withdraw the amount of Rs. 1,680/- being the amount of expenses incurred by the claimant. Mr. A.V. Prajapati submits that, in fact, an iron rod is inserted in the left leg or in the left thai which shall have to be removed and for that purpose another operation is to be undergone and expenses are required to be made. The permission to withdraw the amount of Rs. 1,680/- only, in his submission, is a very ridiculous permission. Having heard Mr.Prajapati and Mr. A.R. Mehta, I am of the opinion that in view of the fact and circumstances of the case and in view of the fact that the iron rod which is inserted in the left thai, some more amount should be permitted to be withdrawn by the claimant and instead of the amount permitted to be withdrawn being Rs. 1,680/-, the claimant is permitted to withdraw the amount of Rs. 17,680/- (Rupees seventeen thousand six hundred and eighty only) as the claimant shall have to undergo another operation for which the necessary expenses shall have to be incurred. It is made clear that Mr. Prajapati has not in any way challenged the award and he accepts the award as being just, reasonable and proper. The direction of the Tribunal is substituted by permitting the claimant to withdraw the amount of Rs. 17,680/-, the First Appeal is allowed partially to the aforesaid extent only. There shall be no order as to costs.

3. In view of the order passed in the main matter, no order on Civil Application No. 9372 of 1997 and the same is disposed of accordingly.

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